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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Billed Party Preference)
for 0+ InterLATA Calls)

CC Docket No. 92-77
Phase I

REPLY COMMENTS

The Competitive Telecommunications Association ("CompTel") hereby submits its Reply Comments in response to the Commission's request for further comment in the Report and Order and Request for Supplemental Comments¹ released earlier in this phase of the above-captioned proceeding.

Nearly all commenters supported the idea that the Commission should compel AT&T to compensate operator service providers ("OSPs") for costs incurred in "transferring" calls placed on a "0+" basis by holders of proprietary calling cards. While most proponents of a system of call transfer and compensation emphasized that only the "0+ public domain" policy debated earlier in Phase I solves the myriad of significant problems caused by AT&T's CIID card program, they acknowledged that compensation for call transfers presents a partial, albeit imperfect solution. Compensation at least would enable OSPs to recover the extraordinary direct costs

¹ In the Matter of Billed Party Preference for 0+ Interlata Calls, Report and Order and Request for Supplemental Comments, CC Docket No. 92-77, Phase I, released November 6, 1992 ("Phase I Order").

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imposed upon them when AT&T "coaches" its cardholders to place calls to OSP networks which cannot handle them.

AT&T was virtually alone in questioning the need for call transfer and compensation. AT&T based its opinion on its unsubstantiated claim that the problem of misdirected "0+" calls is an "interim one" that likely will be of "short duration."² AT&T insisted that it will soon embark on a large educational campaign which "will" substantially reduce the incidence of misdirected "0+" calls.³ However, AT&T provided no evidence in support of the claim that its campaign will succeed. In light of the unrebutted record evidence that huge numbers of such calls are being placed today, and the Commission's prior finding that AT&T made the problem worse by training callers to place calls in an incorrect fashion,⁴ the Commission simply cannot take it on faith that AT&T's planned corrective advertising will quickly cure all ills caused by its prior misbehavior.

The consensus among commenters was that the Commission should find that OSPs may transfer (and obtain compensation for) calls through three different methods: (1) redialing instructions; (2) call reorigination; and (3) call splashing

² AT&T Comments, p.1.

³ Id.

⁴ Letter to Robert E. Allen from FCC (FCC-490), dated November 3, 1992.

in a manner consistent with the requirements of the Telephone Operator Consumer Services Improvement Act of 1990 ("TOCSIA").⁵ A number of commenters explained that the most "reliable, efficient and consumer friendly mechanism" for transferring CIID card calls to AT&T is by means of "simple and clear dialing instructions (e.g. 'Please hang up and dial 1-800-225-5288')."⁶ Others emphasized the importance of having at least one approved mechanism by which OSPs may physically transfer calls to AT&T without the necessity of customer redialing. The preferred solution generally was "call reorigination" by means of autodialers installed in the originating pay telephone or PBX.⁷ CompTel strongly concurs in those views.

Only AT&T contended that such call transfers are impractical. Indeed, AT&T incorrectly indicated that both call reorigination and call splashing are technically unworkable. According to AT&T, the major drawback to call reorigination is that callers may have to reinput their terminating number and/or calling card number after being

⁵ MCI Comments, p. 3; One Call Comments, p. 2; Annex Comments, pp. 3-4.

⁶ LDDS Comments, p. 4; ITI Comments, p. 5; Phonetel Comments, pp. 3-4.

⁷ Value Added Communications ("VAC") Comments, p. 2; APCC Comments, p. 4; AMNEX Comments, pp. 5-6.

transferred to the AT&T operator.⁸ The simple answer to this is that several OSPs stated that their systems enabled calls to be reoriginated without the need for any customer redialing.⁹ Perhaps more importantly, even where redialing is required, the redialing involved always is substantially less than would be needed if callers had to hang up and redial calls beginning with a carrier access code.

AT&T's objections to call splashing are twofold. Both concerns are unfounded. First, AT&T complains that it would have to establish "direct trunking" connections with other OSPs to avoid duplicative access charges.¹⁰ This is true, but there is no technical impediment to establishing such connections -- indeed, the record is clear that OSPs have offered to establish such connections to AT&T.¹¹ Second, AT&T states that it could not bill "splashed" calls correctly because "AT&T's operator centers are not able to process and bill calls that present ANI for an originating location that is not served by that specific operator center."¹² But in a telling omission, AT&T does not claim that its system cannot

⁸ AT&T Comments, p. 3.

⁹ VAC Comments, p. 2; Annex Comments, p. 4.

¹⁰ AT&T Comments, p. 4.

¹¹ NTS Through Rate Petition, File No. ENF-89-2, p. 7 & Exh. 2.

¹² AT&T Comments, p. 5, n. 6.

be upgraded to accept transferred ANI, nor does it even submit that such modifications would be difficult or costly.

AT&T's position on the feasibility of providing redialing instructions is equally troublesome. AT&T stated a strong preference that OSPs instruct CIID cardholders to hang up and redial AT&T's access code, but AT&T failed to acknowledge that it should pay OSPs a reasonable amount for the benefits derived from this service.¹³ The fact is that recipient OSPs incur sizeable costs in redirecting such calls to AT&T, and AT&T receives revenue producing traffic as a direct consequence of the resulting customer redialing. CompTel strongly agrees with the numerous commenters who believe that AT&T should be forced to pay for this service.¹⁴

CompTel also agrees with the point made by several commenters that OSPs should be permitted to set "0+" transfer charges at levels sufficient to enable them to recover all costs reasonably incurred by them in the receipt and transfer of affected calls.¹⁵ AS LDDS explained, these costs include the following elements at a minimum: (1) LEC access charges; (2) interexchange transmission costs incurred in routing calls from the originating POP to the OSP operator center;

¹³ Id., pp. 6-7.

¹⁴ E.g., LDDS Comments, p. 6.

¹⁵ Joint Comments of Cleartel, International Pacific and Teltrust, pp. 5-7; Capital Network Systems Comments, pp. 5-7.

(3) validation costs; and (4) operator costs, including both labor and equipment expenses.¹⁶

Perhaps most important is the idea that participation in a system of call transfer and compensation must be mandatory for all issuers of proprietary "0+" calling cards. The evidence is clear that AT&T derives significant competitive benefits from saddling its competitors with "0+" calls which they are unable to complete. The record also shows that most OSPs provide redialing instructions today by necessity without charge. Thus, AT&T has no incentive to enter voluntarily into a compensation arrangement, regardless of the reasonableness of the terms proposed.

Only Sprint objected to the idea that compensation must be made mandatory.¹⁷ In addition to sharing AT&T's unsubstantiated belief that CIID card problems are short term, Sprint was concerned that some OSPs could encourage callers to dial "0+" instead of access codes to obtain call transfer compensation. The answer to this is that most OSPs seek only to recover their reasonable out-of-pocket costs incurred in transferring calls. Since there is no significant profit realized, there is no incentive to maximize call transfer volumes. Moreover, it would be a

¹⁶ LDDS Comments, p. 6.

¹⁷ CompTel, like most other commenters, believes that OSPs should be free to elect not to provide a transfer service at all.

simple matter to require OSPs to agree in their implementing contracts or tariffs not to instruct access code dialers to utilize "0+" calling.

Sprint also questioned the legal basis for making participation in a call transfer and compensation system mandatory. CompTel believes that the Commission possesses ample authority to require carriers subject to its jurisdiction to reimburse other carriers for costs which they impose upon them. Section 202(a) of the Communications Act, of course, makes it unlawful for any common carrier to engage in any unjust or unreasonable practice. The Commission could simply find that it is an unreasonable practice for interexchange carriers ("IXCs") to issue proprietary "0+" calling cards without agreeing to compensate other OSPs for costs incurred by them in transferring misrouted calls. More specific authority can be found in Section 201(a) of the Communications Act which expressly authorizes the Commission to "establish physical connections with other carriers, to establish through routes and charges, and to establish and provide facilities and regulations for operating such through routes" whenever it "finds such action necessary or desirable in the public interest."¹⁸

¹⁸ AT&T contends that two carriers must hold themselves out to the public as participating in a joint endeavor to create a "through route." AT&T Comments, p. 5, n. 7. The language of Section 201(a), which simply empowers
(continued...)

Indeed, the Commission has ordered carriers to compensate others for the costs caused by them in similar situations in the past. Most recently, the Commission ordered numerous IXCs to compensate private payphone providers for routing dial-around access code calls to them.¹⁹ Sprint attempts to distinguish the private payphone compensation order from the present situation by claiming that the Commission had special statutory authority under Section 226(e)(2) of the Communications Act for prescribing private payphone compensation.²⁰ But Sprint's reading of Section 226(e)(2) is incorrect. The statute instructed the Commission to "consider the need to prescribe payphone compensation," but did not create any special power or authority to create a compensation system. On the contrary, the language of the statute strongly implies that the Commission already possessed such authority, and simply told the Commission to consider applying it to provide relief to the private payphone industry.

The record is clear. AT&T's proprietary "0+" CIID calling cards are imposing enormous and unjust costs upon

¹⁸(...continued)
the Commission to "establish" connections or through routes, simply does not contain the limitation suggested by AT&T.


¹⁹ Second Report and Order, CC Docket No. 91-35, 7 FCC Rcd 3251 (1992).

²⁰ Sprint Comments, p. 5.

other OSPs daily. Only adoption of a "0+ public domain" policy can resolve all of the problems caused by the AT&T CIID card roll-out. But creation of a reasonable call transfer and compensation system which is mandatory to the transferee OSP can alleviate at least some of the most egregious inequities involved. Time is of the essence. CompTel respectfully requests that the Commission immediately order issuers of proprietary "0+" cards to compensate recipient OSPs for all reasonable costs incurred in transferring misdirected calls to them.

Respectfully submitted,

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